

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CLARENCE COMMINGS,

Plaintiff,

vs.

MATTHEW FLOWERS,

Defendant.

Case No. 11-cv-643-JPG-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“R & R”) (Doc. 45) of Magistrate Judge Philip M. Frazier recommending that the Court deny Flowers’ partial motion for summary judgment (Doc. 39).

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the R & R. The Court has reviewed the entire file and finds that the R & R is not clearly erroneous. Accordingly, the Court hereby **ADOPTS** the R & R (Doc. 45) in its entirety and **DENIES** Flowers’ partial motion for summary judgment (Doc. 39).

IT IS SO ORDERED.

DATED: February 19, 2013

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE